

The Honorable Marsha Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TODD COLLINS,

Plaintiff,

NO. C08-0238P

v.

GEE WEST SEATTLE, LLC,

Defendant.

**DEFENDANT'S ANSWER AND
AFFIRMATIVE DEFENSE TO
PLAINTIFF'S CLASS ACTION
COMPLAINT**

Gee West Seattle, LLC (hereafter "Gee West Seattle" or "Defendant") answers plaintiffs' Class Action Complaint for Violations of the Warn Act as follows:

ANSWER

1.1 Answering paragraph 1.1, Defendant admits that this case is styled as a putative class action alleging violations of the Worker Adjustment and Retraining Notification Act of 1988, but denies that it acted unlawfully in any way alleged and further denies that this action is appropriate for certification as a class.

2.1 Answering paragraph 2.1, Defendant admits this court has subject matter jurisdiction of this action.

2.2 Answering paragraph 2.2, Defendant admits venue is proper.

1 3.1 Answering paragraph 3.1, Defendant admits that it is a Washington limited
2 liability company, but denies all other allegations of this paragraph.

3 3.2 Answering paragraph 3.2, Defendant admits plaintiff was at one time
4 employed by Defendant as a fleet manager. Defendant denies all other allegations of this
5 paragraph.

6 4.1 Answering paragraph 4.1, Defendant admits it purchased the West Seattle auto
7 dealerships in January 2007.

8 4.2 Answering paragraph 4.2, Defendant admits it closed its West Seattle auto
9 dealerships. Defendant denies that the closure resulted in the termination of the employment
10 of essentially all its employees.

11 4.3 Answering paragraph 4.3, Defendant denies it was obligated to provide 60
12 days' notice.

13 5.1 Answering paragraph 5.1, Defendant denies.

14 5.2 Answering paragraph 5.2, Defendant denies class certification is appropriate.

15 5.3 Answering paragraph 5.3, Defendant denies.

16 5.4 Answering paragraph 5.4, Defendant denies, and denies class certification is
17 appropriate.

18 5.5 Answering paragraph 5.5, Defendant denies, and denies class certification is
19 appropriate.

20 5.6 Answering paragraph 5.6, Defendant denies class certification is appropriate.
21 Defendant is without sufficient information to form a belief as to the truth of the remaining
22 allegations, and therefore denies.

23 5.7 Answering paragraph 5.7, Defendant denies class certification is appropriate.
24 Defendant is without sufficient information to form a belief as to the truth of the remaining
25 allegations, and therefore denies.

1 5.8 Answering paragraph 5.8, Defendant denies class certification is appropriate.
2 Defendant is without sufficient information to form a belief as to the truth of the remaining
3 allegations, and therefore denies.

4 5.9 Answering paragraph 5.9, Defendant denies.

5 5.10 Answering paragraph 5.10, Defendant denies class certification is appropriate.
6 Defendant is unaware of any other pending litigation involving the same claims or putative
7 class.

8 5.11 Answering paragraph 5.11, Defendant denies.

9 5.12 Answering paragraph 5.12, Defendant denies class certification is appropriate.
10 Defendant is without sufficient information to form a belief as to the truth of the remaining
11 allegations, and therefore denies.

12 6.1 Answering paragraph 6.1, Defendant incorporates its responses above.

13 6.2 Answering paragraph 6.2, Defendant denies.

14 6.3 Answering paragraph 6.3, Defendant denies.

15 6.4 Answering paragraph 6.4, Defendant denies.

16 6.5 Answering paragraph 6.5, Defendant denies.

17 6.6 Answering paragraph 6.6, Defendant denies.

18 AFFIRMATIVE DEFENSES

19 FURTHER, AND BY WAY OF affirmative defenses, Defendant alleges the following
20 on knowledge and/or information and belief:

- 21 1. Plaintiff lacks standing to bring this action;
22 2. Plaintiff has failed to state a claim upon which relief can be granted;
23 3. Waiver;
24 4. Estoppel;
25 5. Set off;
26

6. Failure to mitigate.

Defendant reserves the right to assert further affirmative defenses which may develop during the course of litigation.

PRAYER FOR RELIEF

WHEREFORE, having fully answered the Complaint, Defendant Gee West Seattle prays for:

1. Dismissal of all claims with prejudice and with costs and attorneys' fees taxed against plaintiff;
2. For judgment against plaintiff and/or plaintiff's counsel for costs, expenses and reasonable attorneys' fees incurred by Defendant pursuant to 29 U.S.C. § 2104(a)(6);
3. For such other and further relief as to the Court seems just and fair.

DATED this 25th day of April, 2008.

RYAN, SWANSON & CLEVELAND, PLLC

By



Richard P. Lentini

WSBA #18086

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CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2008, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Michael C. Subit
Frank Freed Subit & Thomas
705 Second Avenue, Suite 1200
Seattle, WA 98104-1798

DATED this 25th day of April, 2008.


Marcia M. Jacobson